

# House Study Bill 692

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON MADDOX)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act eliminating provisions allowing a criminal offender to  
2 make a donation or contribution to a charity or local  
3 anticrime organization.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 6599HC 80  
6 jm/gg/14

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1 1 Section 1. Section 907.13, subsection 2, Code 2003, is  
1 2 amended to read as follows:  
1 3 2. The defendant's plan of community service, the comments  
1 4 of the defendant's probation officer, and the comments of the  
1 5 representative of the judicial district department of  
1 6 correctional services responsible for the unpaid community  
1 7 service program, shall be submitted promptly to the court.  
1 8 The court shall promptly enter an order approving the plan or  
1 9 modifying it. Compliance with the plan of community service  
1 10 as approved or modified by the court shall be a condition of  
1 11 the defendant's probation. The court thereafter may modify  
1 12 the plan at any time upon the defendant's request, upon the  
1 13 request of the judicial district department of correctional  
1 14 services, or upon the court's own motion. ~~As an option for~~  
~~1 15 modification of a plan, the court may allow a defendant to~~  
~~1 16 complete some part or all of the defendant's community service~~  
~~1 17 obligation through the donation of property to a charitable~~  
~~1 18 organization other than a governmental subdivision. A~~  
~~1 19 donation of property to a charitable organization offered in~~  
~~1 20 satisfaction of some part or all of a community service~~  
~~1 21 obligation under this subsection is not a deductible~~  
~~1 22 contribution for the purposes of federal or state income~~  
~~1 23 taxes.~~  
1 24 Sec. 2. Section 910.1, subsection 4, Code Supplement 2003,  
1 25 is amended to read as follows:  
1 26 4. "Restitution" means payment of pecuniary damages to a  
1 27 victim in an amount and in the manner provided by the  
1 28 offender's plan of restitution. "Restitution" also includes  
1 29 fines, penalties, and surcharges, ~~the contribution of funds to~~  
~~1 30 a local anticrime organization which provided assistance to~~  
~~1 31 law enforcement in an offender's case,~~ the payment of crime  
1 32 victim compensation program reimbursements, payment of  
1 33 restitution to public agencies pursuant to section 321J.2,  
1 34 subsection 9, paragraph "b", court costs including  
1 35 correctional fees approved pursuant to section 356.7, court=  
2 1 appointed attorney fees ordered pursuant to section 815.9,  
2 2 including the expense of a public defender, and the  
2 3 performance of a public service by an offender in an amount  
2 4 set by the court when the offender cannot reasonably pay all  
2 5 or part of the court costs including correctional fees  
2 6 approved pursuant to section 356.7, or court=appointed  
2 7 attorney fees ordered pursuant to section 815.9, including the  
2 8 expense of a public defender.  
2 9 Sec. 3. Section 910.2, Code 2003, is amended to read as  
2 10 follows:  
2 11 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY  
2 12 SENTENCING COURT.  
2 13 In all criminal cases in which there is a plea of guilty,  
2 14 verdict of guilty, or special verdict upon which a judgment of  
2 15 conviction is rendered, the sentencing court shall order that  
2 16 restitution be made by each offender to the victims of the  
2 17 offender's criminal activities, to the clerk of court for  
2 18 fines, penalties, surcharges, and, to the extent that the  
2 19 offender is reasonably able to pay, for crime victim  
2 20 assistance reimbursement, restitution to public agencies  
2 21 pursuant to section 321J.2, subsection 9, paragraph "b", court

2 22 costs including correctional fees approved pursuant to section  
2 23 356.7, or court=appointed attorney fees ordered pursuant to  
2 24 section 815.9, including the expense of a public defender,  
2 25 when applicable, ~~or contribution to a local anticrime~~  
2 26 ~~organization~~. However, victims shall be paid in full before  
2 27 fines, penalties, and surcharges, crime victim compensation  
2 28 program reimbursement, public agencies, court costs including  
2 29 correctional fees approved pursuant to section 356.7, court=  
2 30 appointed attorney fees ordered pursuant to section 815.9,  
2 31 including the expenses of a public defender, ~~or contributions~~  
2 32 ~~to a local anticrime organization are paid~~. In structuring a  
2 33 plan of restitution, the court shall provide for payments in  
2 34 the following order of priority: victim, fines, penalties,  
2 35 and surcharges, crime victim compensation program  
3 1 reimbursement, public agencies, court costs including  
3 2 correctional fees approved pursuant to section 356.7, and  
3 3 court=appointed attorney fees ordered pursuant to section  
3 4 815.9, including the expense of a public defender, ~~and~~  
3 5 ~~contribution to a local anticrime organization~~.  
3 6 When the offender is not reasonably able to pay all or a  
3 7 part of the crime victim compensation program reimbursement,  
3 8 public agency restitution, court costs including correctional  
3 9 fees approved pursuant to section 356.7, or court=appointed  
3 10 attorney fees ordered pursuant to section 815.9, including the  
3 11 expense of a public defender, ~~or contribution to a local~~  
3 12 ~~anticrime organization~~, the court may require the offender in  
3 13 lieu of that portion of the crime victim compensation program  
3 14 reimbursement, public agency restitution, court costs  
3 15 including correctional fees approved pursuant to section  
3 16 356.7, or court=appointed attorney fees ordered pursuant to  
3 17 section 815.9, including the expense of a public defender, ~~or~~  
3 18 ~~contribution to a local anticrime organization~~ for which the  
3 19 offender is not reasonably able to pay, to perform a needed  
3 20 public service for a governmental agency or for a private  
3 21 nonprofit agency which provides a service to the youth,  
3 22 elderly, or poor of the community. When community service is  
3 23 ordered, the court shall set a specific number of hours of  
3 24 service to be performed by the offender which, for payment of  
3 25 court=appointed attorney fees ordered pursuant to section  
3 26 815.9, including the expenses of a public defender, shall be  
3 27 approximately equivalent in value to those costs. The  
3 28 judicial district department of correctional services shall  
3 29 provide for the assignment of the offender to a public agency  
3 30 or private nonprofit agency to perform the required service.

3 31 EXPLANATION

3 32 This bill eliminates a provision allowing a criminal  
3 33 offender to make a donation in lieu of performing community  
3 34 service. The bill also eliminates provisions allowing a  
3 35 contribution by a criminal offender to a local anticrime  
4 1 organization as part of the offender's restitution plan.

4 2 LSB 6599HC 80

4 3 jm/gg/14